THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No. 26790 of 1998
Date: 31-07-2007

Between:
G.Pullaiah

Petitioner

And

The Chief Engineer and Managing Director,
A.P. Health & Medical, Health & Infrastructure
Development Corporation, Hyderabad and others

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.26790 of 1998

ORDER:

1. This writ petition has been instituted with a prayer as follows:

"Writ of Mandamus by declaring the action of the respondents herein in denying the payment of salary and allowances from 15.12.97 to 3.4.98 basing on the letter dated

15.12.97 as illegal, arbitrary"

2. Heard the learned counsel for the writ petitioner. None appeared for the respondents.

3. The writ petitioner appears to be the servant of the Government of Andhra Pradesh in it's Irrigation and Command Area Development Department. The Engineer-in-Chief, I&CAD Department, Hyderabad through his proceedings dated 29-07-1997 deputed the writ petitioner to work with the Health and Medical Housing and Infrastructure Development Corporation, Hyderabad (for short 'Corporation') for a period of one year. Pursuant to this order of deputation dated 29-07-1997, the writ petitioner appears to have joined the service of the Corporation in the office of it's Executive Engineer, H.N.S.S. Division, Kurnool on 30-07-1997.

4. Subsequently through an office order dated 07.11.1997, the writ petitioner has been posted to the Tirupati Division of the Corporation and is requested to join duty at Tirupathi within a period of 15 days. The writ petitioner appears to have joined the service of the Corporation at Tirupathi Office on 13.11.1997. It is alleged against him that he had left the office without any prior permission. It was initially considered that he was absent unauthorizedly from 27-11-1997 to 05-12-1997. The explanation offered by the writ petitioner that he had gone to Kadapah for the purposes of visiting the office of the Provident Fund Commissioner for the purposes of collecting the particulars of the provident fund contributions of the employees of the Corporation, was found not convincing, obviously, because he has not been directed to proceed to the office of the Provident Fund Commissioner nor was he entrusted with the said work. Through memo dated 02-12-1997 the Executive Engineer of the Corporation, Tirupathi called for the explanation of the writ petitioner for his absence from 27.11.1997 onwards. The explanation called for has not been furnished. Though he returned and joined duty on 06-12-1997, he kept himself away from the office without obtaining any permission with effect from 13.12.1997 onwards. Again he seems to have reported to duty on 22-12-1997. In these set of circumstances, the Executive Engineer of the Corporation at Tirupati passed orders through his proceedings dated 15-12-1997 surrendering the services of the writ petitioner to that of the Superintending Engineer of the Corporation at Kurnool. When the writ petitioner got issued a legal notice dated 03-04-1998 seeking payment of salary and allowances, the Executive Engineer of the Corporation at Tirupathi furnished a detailed reply dated 29-04-1998 making it clear that the salary and allowances payable to the writ petitioner for the period from 13-11-1997 to 26-11-1997 and again from 06-12-1997 to 12-12-1997 and again on 22-12-1997 and for the joining time, he had been paid the salary and allowances upon receipt of his leave address from the Superintending Engineer of the Corporation at Kurnool. The Corporation has pointed out that the period of absence from service by the writ petitioner for the spells between 27-11-1997 to 5-12-1997 and 13-12-1997 to 21-12-1997 can only be finalized after receipt of appropriate leave application from the writ petitioner. Therefore, for the spells of periods when the writ petitioner has performed his duties at Tirupati office of the Corporation, he has been paid the salary and allowances which are due to him. For the period he did not perform duties at Tirupati and stayed away from office without obtaining any prior permission he has not been paid any salary and allowances so far. The learned counsel for the writ petitioner is not in a position to demonstrate as to how an employee who

stays away from the duty can seek payment of salary and allowances for the period of his absence. Generally by securing leave of absence an employee is entitled to regulate his period of absence. No person has got any right to demand sanction of leave as a matter of right or as a matter of course, leave of absence has got to be applied for and got sanctioned. Similarly if the services of a servant are found not satisfactory and if he has been posted to function at another and different office, no grievance can be made out in that regard. In the present writ petition what has been put in issue is the order passed on 15-12-1997 by the Executive Engineer of the Corporation at Tirupati surrendering the services of the writ petitioner to that of the Superintending Engineer at Kurnool. I do not find any illegality or infirmity rendering this exercise illegal in any manner. I therefore do not find any merit in this writ petition and it is accordingly dismissed, but however, without costs.

NOOTY RAMAMOHANA RAO,J

31-07-2007
Stp